

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

BETTY WILSON,)
MICHAEL MACMANN)
)
Plaintiffs)
)
v.) **Case No.:**
)
CITY OF COLUMBIA,)
MIKE MATTHES,)
)
Defendants)

NOTICE OF REMOVAL AND JURY TRIAL DEMAND

COME NOW, Defendants City of Columbia and Mike Matthes, by and through their attorneys, Schreimann, Rackers, Francka & Blunt, L.L.C., and pursuant to 28 U.S.C. § 1441 and 1446 hereby files this Notice of Removal in the United States District Court, Western District of Missouri, Central Division, and respectfully state as follows:

1. On or about August 12, 2014, Betty Wilson and Michael MacMann commenced an action in the Circuit Court of Boone County, Missouri, styled Betty Wilson, Michael MacMann v. City of Columbia, Mike Matthes, Case No. 14BA-CV02668. Plaintiffs filed their Verified Petition for Relief at this time. See Exhibit A.
2. On or about August 12, 2014, Plaintiffs filed a Motion for Temporary Restraining Order Without Notice. See Exhibit B.
3. All other process, pleadings, and orders served upon Defendants City of

Columbia and Mike Matthes are attached hereto as Exhibit C and incorporated herein by reference.

4. Plaintiffs' Verified Petition for Relief includes a Count that alleges "The actions taken by these Defendants were taken as part of a deliberate plan and scheme to deny the Plaintiffs their rights under the City Charter and thus violated their rights to free speech, to petition the government, all as protected by the First and Fourteenth Amendments to the United States Constitution." See Paragraph 90 of Exhibit A. While not explicitly denominated as such, Paragraph 90 alleges a 42 U.S.C. § 1983 claim. Thus, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

5. Removal is appropriate in the Western District of Missouri, Central Division, inasmuch as this case is currently pending in the State Court in the United States District Court, Western District, Central Division in Boone County, Missouri. 28 U.S.C. § 1446 ("A defendant or defendants desiring to remove any civil action or criminal prosecution from a State Court shall file in the district court of the United States for the district and division within which such action is pending a Notice of Removal . . .")

6. Written notice of the filing of this Notice of Removal has been served on all parties who have appeared in this action and a copy of the Notice of Removal has been filed with the Clerk of Court of the Circuit Court of Boone County, Missouri.

7. OPUS Development Company, L.L.C. and HSRE-ODC II MIZZOU,

LLC moved to intervene on August 15, 2014. However, this motion has not yet been ruled on. Both OPUS Development Company, L.L.C. and HSRE-ODC II MIZZOU LLC consent to removal pursuant to Section 28 U.S.C. 1446(b)(2)(A).

WHEREFORE, Defendants City of Columbia and Mike Matthes request that this action be removed from the Circuit Court of Boone County, Missouri, to this Court, and that further proceedings be conducted in this Court as provided by law.

JURY TRIAL DEMAND

Defendants City of Columbia and Mike Matthes hereby request a trial by jury on all issues triable by jury.

Respectfully Submitted,

SCHREIMANN, RACKERS,
FRANCKA AND BLUNT, L.L.C.

/s/ Chris Rackers
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Attorneys for Defendant City of Columbia
and Mike Matthes

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all attorneys of record on August 21, 2014.

/s/ Chris Rackers

Christopher P. Rackers